

RESOLUTION NO. 25-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ESTABLISHING SUBSTANCE ABUSE POLICIES AND PROCEDURES FOR THE MESQUITE TRANSPORTATION FOR THE ELDERLY AND DISABLED PROGRAM AS REQUIRED BY THE FEDERAL TRANSIT ADMINISTRATION; AUTHORIZING THE CITY MANAGER TO MAKE FUTURE AMENDMENTS TO THE POLICIES AND PROCEDURES AS MAY BE REQUIRED BY LAW.

WHEREAS, the Mesquite Transportation for the Elderly and Disabled ("MTED") Program receives federal funding through the Federal Transit Administration ("FTA"); and

WHEREAS, the FTA requires that the City of Mesquite (the "City") adopt substance abuse policies and procedures that comply with the United States Department of Transportation and FTA regulations to continue receiving their funding; and

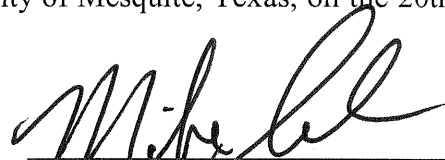
WHEREAS, the FTA policy differs from the City's policy and is applied to certain personnel who operate in a "safety sensitive" function as defined by FTA regulations including MTED bus drivers, mechanics, dispatchers and supervisors.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the City Council hereby adopts the City of Mesquite's Transportation for the Elderly and Disabled (MTED) Substance Abuse Policies and Procedures, attached hereto as Exhibit "A," pursuant to Federal Transit Administration regulations.

SECTION 2. That the City Manager is hereby authorized to make future amendments to the policies and procedures as may be required by law.

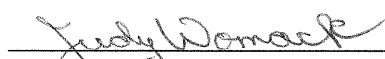
DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 20th day of June, 2005.




Mike Anderson
Mayor

ATTEST:

APPROVED:



Judy Womack
City Secretary

B.J. Smith
City Attorney

Mesquite Transportation for the Elderly and Disabled (MTED) Substance Abuse Policies and Procedures

Applicable to positions subject to Federal Transit Administration regulations	
Effective Date: _____	

1.0 Purpose:

The purpose of this policy is to establish a formal substance abuse screening program that complies with Federal Transit Administration regulatory requirements and related City of Mesquite policies and procedures developed to maintain a safe, healthful and productive work environment for all affected employees and the served community.

The City of Mesquite promotes the safety of its citizens, employees and the general public by encouraging a drug-free workplace, and by undertaking affirmative measures to deter and detect the use of illegal drugs and alcohol misuse in the workplace.

The policies and procedures in this chapter outline the regulations of the United States Department of Transportation (DOT) and the Federal Transit Administration (FTA), a DOT agency, regarding testing of transit agency employees who perform safety-sensitive functions to detect alcohol misuse and prohibited drug use.

1.1 References

- 1.1.1 Prevention of Prohibited Drug Use in Transit Operations (49 CFR part 655)
- 1.1.2 Prevention of Alcohol Misuse in the Transit Operations (49CFR part 655)
- 1.1.3 Procedures for Transportation Workplace Drug and Alcohol Testing Program (49 CFR part 40)
- 1.1.4 The Drug- Free Workplace Act of 1988 (FR-Vol.55-No. 102, May 25, 1990) (Pub. L. 100-690, title V, subtitle D)

2.0 Scope:

All employees defined in this policy including seasonal, part-time and temporary employees, persons being considered for employment and transfers to the City of Mesquite Transportation for Elderly & Disabled (MTED) Division, as well as employees assigned to other departments that service and occasionally use MTED equipment. See Appendix 2.

3.0 Policies:

Employees that are subject to this policy are also subject to the City of Mesquite's General Government Policies and Procedures that affect all employees of the City, independent of the regulations imposed by the U.S. Department of Transportation Federal Transit Administration and/or the Drug Free Workplace Act.

- 3.1 The City of Mesquite encourages all employees to seek early, voluntary, confidential treatment through the City's Employee Assistance Program (EAP) whose services include counseling and referral services for employees and their dependents with substance abuse and/or alcohol misuse problems.
- 3.2 Contact Person: Questions concerning this policy, drug testing procedures and/or authorization should be referred to the Risk Manager, telephone number: 972-216-8168, located in the Human Resources Department, 1515 N. Galloway Street, Mesquite, Texas, 75149. In the event that the Risk Manager is unavailable, employees may contact the Human Resources Director at 972-216-6410.
- 3.3 The City is not obligated to reinstate or rehire any employee who violates any Department of Transportation Federal Transit Administration (FTA) or any other City prohibition or requirement concerning drugs and alcohol.
- 3.4 Drug and Alcohol testing procedures for MTED employees subject to Department of Transportation Federal Transit Administration (FTA), or who are in MTED positions designated in this policy as safety-sensitive, shall conform to guidelines set forth in 49 CFR Part 40 of the Department of Transportation Regulations.

4.0 Prohibited Conduct:

Employees may receive disciplinary action up to and including termination for conduct, including but not limited to:

- 4.1 The manufacture, use, possession, sale, distribution, consumption or transportation of any of the substances described in 4.1.1, 4.1.2, 4.1.3, or 4.1.4 while on city property or in a city vehicle, or while otherwise conducting city business, or performing job duties and responsibilities.
 - 4.1.1 Illegal drugs, controlled substances, marijuana, mood or mind altering substances, simulated controlled substances, designer and synthetic drugs, or inhalants producing mood or mind altering vapors.
 - 4.1.2 Alcoholic beverages or other intoxicating substances, including possession of prescription and/or over-the-counter medications containing alcohol, unless

unopened, or unless the alcohol is manifested and transported as part of a shipment.

- 4.1.3 Drug paraphernalia as such, is defined by state law.
- 4.1.4 Hemp seed oil or any other substance that contains a level of THC high enough to exceed the cut-off levels identified in the FTA DOT guidelines for substance abuse testing. The use of any substance, without a valid prescription, that produces THC that exceeds the acceptable level, shall be reported by the Medical Review Officer as a confirmed positive for marijuana.
- 4.2 Use of alcohol within 4 hours prior to or while performing safety-sensitive functions as defined herein.
- 4.3 Use of alcohol within 8 hours following an on the job accident, or prior to undergoing a post-accident test.
- 4.4 Reporting for duty or remaining on duty to perform safety-sensitive functions with an alcohol concentration of 0.02 or greater.
- 4.5 Refusal to take a required drug/alcohol test.
- 4.6 Use of any controlled substance, except by physician's prescription, and then only if the physician has advised the employee that the drug will not adversely affect the employee's ability to safely perform their job.
- 4.7 Testing positive for drugs/alcohol.
- 4.8 Tampering with or submitting a false sample.
- 4.9 Using or possessing illegal drugs or alcohol outside of work hours while on city property, or while wearing a city uniform.
- 4.8 Failure to inform supervisors when taking medication that could affect the employee's job performance.
- 4.9 Engaging in or involvement with any of the substances described in this section which results in off-duty conduct that is damaging to the City's reputation or business, is inconsistent with the employee's job duties, or that results in impairment of the employee's job performance while on-duty.
- 4.10 Distribution of a legally prescribed drug to another individual and/or employee to whom the drug was not prescribed.

5.0 Prescription and Over the Counter Medications:

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**Mesquite Transportation for the Elderly and Disabled (MTED)
Substance Abuse Policies and Procedures**

Employees may receive disciplinary action up to and including termination for misusing prescription and over the counter medications.

- 5.1 Except under the following conditions, use of prescription drugs or over the counter medications is prohibited:
 - 5.1.1 The prescription drug has been prescribed by a licensed physician for the person in possession of the drug.
 - 5.1.2 The prescription drug or over-the-counter medication is ingested or administered only in the prescribed or recommended therapeutic dosages.
 - 5.1.3 The employee taking the drug or medication has reported the use to the Department and/or Division Manager or designee when the use of such drug or medication may affect the employee's ability to perform assigned duties.
- 5.2 The City at all times reserves the right to have a designated city physician determine if a prescription drug or medication may impair an employee's ability to safely perform his/her job duties and may restrict the job duties performed while using any drug or medication.
- 5.3 Use of a prescription drug, verified by the Medical Review Officer as having been prescribed for an applicant, will not be considered a disqualification from employment or subject to disciplinary action.
- 5.4 If a drug test shows that an employee has taken a prescription drug for which the employee **does not** have a legal prescription, the drug test result will be reported as positive. Disciplinary action will be initiated as set forth in paragraph 7.2.4 of this policy.
- 5.5 Applicants may be considered disqualified if, in the judgment of the Medical Review Officer, prescription drugs being taken by the applicant would be potentially harmful to the safety of the applicant or others in the performance of the duties of the position.

6.0 Testing Circumstances/Procedures:

This section provides information on the procedures that will be used to test for the presence of prohibited drugs, to protect the employee and the integrity of the drug testing process, to safeguard the validity of the test results and to ensure that the results are correctly attributed to the proper employee. All tests must be conducted in accordance with Department of Transportation (DOT) regulations found in 49 CFR part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" and any amendment thereto. This regulation is updated annually and a current copy is on file in Human Resources, available for any employee who would like to refer to or make copies of the regulations. The FTA requires laboratory testing of urine specimens for five types of drugs. Identification of either a drug or its metabolite in urine indicates use of a drug in the recent past. A metabolite is a modified form of a drug that has been chemically altered by the body's metabolic system.

6.1 Authorized Drug Tests

The FTA requires testing for the following five drugs (or their metabolites):

- Marijuana
- Cocaine
- Opiates (e.g., heroin, morphine, codeine)
- Phencyclidine (PCP)
- Amphetamines (e.g., racemic, amphetamine, dexroamphetamine, and methamphetamine)

6.2 Authorized Laboratory

6.2.1 The FTA requires drug testing to be completed in a laboratory certified by the Department of Health and Human Services (DHHS) in accordance with 53 FR 11970, dated April 11, 1988 "Mandatory Guidelines for Federal Workplace Drug Testing Program" and any subsequent amendments thereto. These laboratories have been rigorously inspected and tested to meet the high standards for analytical competence.

6.2.2 At all times this policy is in effect, The City of Mesquite will contract the services of a DHHS-certified laboratory to meet all specified FTA requirements. The identity of the current DHHS laboratory or laboratories under contract with the City of Mesquite are shown in Appendix 7. The City of Mesquite will routinely inspect and monitor these services to ensure contractual obligations are met. The laboratory is responsible for records retention and reporting in accordance with 49 CFR part 40 (40.20, 40.35) and 49 CFR part 653 (653.25) and 49 CFR part 654 (654.71).

6.2.3 The City of Mesquite requires that the laboratory maintain employee test records in confidence, as provided in DOT agency regulations. The contract provides that the laboratory shall disclose information related to a positive drug test of an individual to the individual, to employer, or the decision maker in a lawsuit,

grievance, or other proceeding initiated by or on behalf of the individual and arising from a certified positive drug test.

6.2.4 The laboratory shall report as negative all specimens that are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive will be reported positive for a specific drug.

6.2.5 The Medical Review Officer may request from the laboratory and the laboratory shall provide quantitation of test results. The MRO shall report whether the test is positive or negative, and may report the drug(s) for which there was a positive test, but shall not disclose the quantitation of the test results to the employer. Provided, that the MRO may reveal the quantitation of a positive test result to the employer, the employee, or the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee and arising from a verified positive drug test.

6.3 Pre-employment

6.3.1 The City shall obtain a drug test on all final applicants (those who have received conditional offers of employment) prior to them beginning work for the City. Applicants who test positive for drugs on their pre-employment test shall not be hired.

6.3.2 In the case of applicants who are applying for positions that require a commercial driver's license (CDL) and that are subject to FTA regulations, the City must obtain drug and alcohol testing information from that applicant/employee's previous employers for whom the applicant performed safety-sensitive functions under FTA regulations during the two years prior to their application/employment with the City. This information must be obtained from the previous employers no later than 14 days after an employee begins work for the City in a CDL/safety-sensitive position. If after making a good faith effort to obtain the required information, the City is unable to obtain the information, the City may continue to use the employee if the City documents its attempts in accordance with FTA regulations.

6.4 Post Injury/Accident

6.4.1 When an employee is injured on the job, or has a vehicle accident resulting in equipment damage and/or damage to any property, a supervisor will take the employee to a City designated facility to be treated and to be tested for drugs and alcohol within the timeframes set out in this section. In the event the employee goes to his/her own physician for treatment, the employee will still be tested for drugs and alcohol at the City designated facility within the designated time frames indicated below.

6.4.2 If a post accident/injury drug and alcohol test is required, the employee **WILL NOT BE** permitted to operate any City equipment until after the test results are confirmed. The Risk Manager, Human Resources Director or his designee will contact the employee's Department or Division Manager immediately upon receipt of the test results

6.4.3 Timeframe for Conducting Alcohol Testing

6.4.3.1 If a post accident/injury alcohol test is required, the employee involved in the accident will be tested as soon as possible, but not later than 8 hours after the accident and/or injury. The test will be conducted by a city appointed facility with a Breath Alcohol Technician using a federally approved Evidential Breath Testing Device.

6.4.3.2 If the employee has not submitted to an alcohol test within 2 hours of the incident, the supervisor shall prepare and maintain on file a record stating the reason a test was not promptly administered.

6.4.3.3 If the employee has not submitted to an alcohol test within 8 hours, the supervisor shall cease all attempts to administer the test, and prepare and maintain a record stating the reasons why the test was not performed.

6.4.3.4 An employee who is subject to post accident/injury testing must remain available to test and refrain from consuming alcohol for 8 hours following the accident or until an alcohol test has been given. If the employee is not available for testing, the supervisor may consider the employee to have refused to submit to testing.

6.4.4 Timeframe for Conducting Drug Testing

6.4.4.1 If a post accident/injury requires that a drug test be given, the urine sample for such a test will be collected as soon as possible, but no later than 32 hours after the accident/incident.

6.4.4.2 If an employee has not submitted to a drug test within 32 hours, the City will cease all attempts to administer the test and prepare and maintain a record stating the reasons why.

6.4.5 Missed Tests Documentation

The following information is required to be part of the record stating why testing was not done as directed by this policy:

6.4.5.1 Type of tests (reasonable suspicion or post-accident test).

6.4.5.2 Triggering event (including date, time and location).

6.4.5.3 Reason(s) the test could not be completed within 8 hours for alcohol testing or 32 hours for drug testing.

6.4.6 Nothing in these regulations should be construed to require the delay of necessary medical attention for an injured employee following an accident/injury. Also, the employee may leave the scene of an accident for the period necessary to obtain medical assistance or obtain necessary emergency care.

6.4.7 Employees subject to post-accident testing who fail to remain readily available for such testing will be deemed to have refused to submit to testing.

6.5 Random

The number of MTED safety-sensitive employees randomly selected for alcohol and drug testing during the calendar year will be a minimum annual percentage of The City of Mesquite's MTED safety-sensitive population as determined annually by the FTA. The percentage required each year is published annually and shown in the *Federal Register*.

6.5.1 The City shall maintain a separate random pool for FTA regulated positions to be maintained and reported independently:

6.5.1.1 MTED Employees in positions requiring operation of commercial transit motor vehicles and possession of a commercial driver's license and positions connected to such operation in accordance with the FTA regulations. See Appendix 1.

6.5.1.2 Employees in MTED designated safety-sensitive positions including Division Managers, Department Managers and Executive staff. See Appendix 2.

6.5.2 When Testing May be Conducted

6.5.2.1 Alcohol: An employee will only be tested for alcohol immediately prior to or immediately after performing safety-sensitive functions.

6.5.2.2 Drugs: Drug testing may be conducted at any time while the employee is employed for the City.

6.5.3 Selection and Notification

- 6.5.3.1 Both drug and alcohol tests will be unannounced and will be spread reasonably throughout the year. All employees will be required to sign a form consenting to testing. (Appendix 3)
- 6.5.3.2 The Risk Manager and Human Resources Director, are the only authorized individuals to generate the list of names through the designated software program for random drug and alcohol testing.
- 6.5.3.3 The Risk Manager and/or Human Resources Director shall immediately notify the Department/Division Manager of the names of employees who have been selected. The employee's name shall then be re-entered into the same random pool following selection.
- 6.5.3.4 The Department/Division Manager will ensure that the employee reports for testing as soon as possible, but not later than eight (8) hours after the employee is notified to appear, unless extenuating circumstances exist.
- 6.5.3.5 If the employee is not on duty or is unable to report for testing, the Department/Division Manager will not inform the employee until they are available to be tested. The Manager will maintain the name in a confidential manner and ensure that the employee is notified immediately upon their return to duty and that the employee reports for testing as soon as possible, but not later than eight (8) hours after the individual has returned to duty.
- 6.5.3.6 A Department/Division Manager who violates the confidentiality requirement of section 6.3.3.5 shall be subject to disciplinary action up to and including termination.

6.6 Reasonable Suspicion

- 6.6.1 Employees will be required to submit to reasonable suspicion testing for drugs and/or alcohol if any of the following criteria are determined to exist and the suspicion is based on observations concerning the appearance, behavior, speech or body odors of the employee, which include, but are not limited to:
 - 6.6.1.1 Observable behavior such as direct observation of drug or alcohol use or possession; or physical symptoms consistent with being under the influence of a drug or alcohol;
 - 6.6.1.2 A pattern of abnormal or erratic behavior, smelling of alcohol or marijuana; appearing to be intoxicated, confused, disoriented, uncoordinated or exhibiting marked personality changes.

- 6.6.1.3 Identification of an employee as the focus of criminal investigation into illegal drug possession, use, or trafficking.
- 6.6.1.4 Possession of drug paraphernalia;
- 6.6.1.5 Newly discovered evidence that an employee has tampered with a previous drug and/or alcohol test.
- 6.6.2 Procedures for Reasonable Suspicion
 - 6.6.2.1 Supervisors or other City officials who are responsible for making reasonable suspicion determinations must have received a minimum of one hour awareness training on alcohol abuse and one hour of awareness training on drug abuse.
 - 6.6.2.2 Any employee who has reasonable cause to believe that another employee has ingested, inhaled or injected a drug or has ingested an alcoholic beverage when reporting for work, or while on duty shall be required to immediately notify a trained supervisor.
 - 6.6.2.3 A supervisor receiving a report of drug or alcohol related behavior shall immediately verify the report through personal observation of the reported employee and if in the judgment of the supervisor, the report is accurate, the supervisor shall prohibit the employee from continuing work.
 - 6.6.2.4 When a supervisor observes behavior constituting reasonable suspicion, as a result of a report or otherwise, the supervisor shall document in writing such observed behavior on an Observed Behavior Reasonable Suspicion Record form. See Appendix 4.
 - 6.6.2.5 When observing behavior believed to exhibit reasonable suspicion, a supervisor shall notify the Division Manager and/or Department Manager, in their absence. If they agree, based on the written statement of the facts, that reasonable cause exists and the employee should be tested, the decision to test must be approved by the Risk Manager or Human Resources Director.
 - 6.6.2.6 If all attempts to contact the appropriate Human Resources staff by telephone or assigned pager numbers are unsuccessful, the Department Manager is authorized to require the employee to submit to a drug and alcohol test.
 - 6.6.2.7 The supervisor or Division or Department Manager shall drive the employee to the designated facility identified by the City for drug

and/or alcohol testing. Under no circumstances shall the employee be allowed to drive.

6.6.2.8 The supervisor or Division or Department Manager shall stay with the employee and will drive him/her back to work. If, in the opinion of a supervisor or medical personnel at the city facility, the employee is impaired, arrangements shall be made to transport the employee home.

6.6.2.9 Upon completion of testing, the employee shall immediately be placed on administrative leave pending the results of the drug and/or alcohol test.

6.6.2.10 Supervisors failing to take appropriate actions as set out in this policy may be subject to disciplinary action up to and including termination.

7.0 Alcohol and Drug Testing Procedures, Results and Disciplinary Action:

7.1 Initial Alcohol Screen Test

7.1.1 If the alcohol content is less than 0.02, no further testing is required and the employee may return to work.

7.1.2 If the alcohol content is greater than or equal to 0.02, a confirmation test shall be performed. The confirmation test must be conducted at least 15 minutes, but not more than 30 minutes, after completion of the initial test. If the initial and confirmatory test results are not identical, the confirmation test result is deemed to be the official test result.

7.1.3 If the confirmation test is less than 0.02, no further testing is required and the employee may return to work.

7.1.4 If the confirmation test is greater than or equal to 0.02 employees will be subject to disciplinary action up to and including termination as outlined in the City of Mesquite's General Government Policies and Procedures Manual.

7.2 Initial Drug Screen Test

7.2.1 If the results of the specimen collected are negative, the employee will not be removed from their safety-sensitive position.

7.2.2 Employees whose test results are reported as negative but include unusual reports by the laboratory including low density level, diluted sample, low creatinine level or low specific gravity will be required to repeat the drug test upon notification by the Human Resources Department.

7.2.3 A positive result does not automatically identify an employee or applicant as having used drugs in violation of the FTA regulations or this policy. A review of all positive test results will be performed by a Medical Review Officer prior to the transmission of a positive result to the City.

7.2.4 If the result of the specimen review by a Medical Review Officer is positive, employees are subject to disciplinary action up to and including termination as outlined in the City of Mesquite's General Government Policies and Procedures Manual.

8.0 Disclosure of Information:

8.1 After review by the Medical Review Officer, only those drug test results that are confirmed as positive shall be reported to the City of Mesquite.

8.2 The Medical Review Officer (MRO) shall not disclose to any third party medical information provided by the individual as part of the testing verification process.

8.3 Test results and other written materials concerning a drug and/or alcohol test shall be kept in a confidential file in Human Resources.

9.0 Employee Assistance Program:

9.1 Reference the City of Mesquite General Government Policies and Procedures Manual.

10.0 Record Keeping:

10.1 The Human Resources Department will maintain records of its alcohol misuse and substance abuse prevention program. The records will be maintained in a secure location with controlled, limited access in accordance with FTA regulations.

10.2 Employees are entitled, upon written request, to any records pertaining to his/her drug or alcohol tests.

11.0 Testing Facility Procedures:

11.1 Chain of Custody

11.1.1 A drug testing custody and control form shall be used to document the chain of custody from the collection site to the laboratory.

11.1.2. The chain of custody control form must be properly executed by an authorized collection-site person. Handling and transportation of urine specimens from one authorized individual or place to another must be accomplished through chain of

custody procedures in order to minimize the number of persons handling a specimen.

- 11.1.3 To minimize the chance of error, the collection site shall collect only one specimen at any give time. The collection procedure for each specimen is completed when the urine bottle has been sealed, marked with the proper identification and initialed by the employee, the urine custody and control form has been executed, and the employee has departed the collection site.
- 11.1.4 All efforts shall be taken to ensure individual privacy of the test subject. Only when there is reason to believe that a particular individual may alter or substitute the specimen shall additional precautions be taken.

12.0 Precautions

12.1 Minimum Precautions in Obtaining Specimens

- 12.1.1 Employees presenting themselves for collection shall present picture identification so that they may be properly identified employees failing to present a picture ID may be identified by the employer's representative. If positive identification is not possible, the collection shall not proceed.
- 12.1.2 An employee's arrival time at the test site should be noted. If an employee scheduled for testing arrives late or fails to present for testing the collection site person shall immediately contact the appropriate employer representative.
- 12.1.3 The collection site person shall request that the test subject remove all unnecessary outer garments (i.e., coat or jacket) and leave other personal belongings (purses, briefcases, backpacks, etc.) outside of the privacy collection area. A secure area shall be provided for storage of the employee's personal belongings. Employees may be allowed to keep their wallets.
- 12.1.4 Before and after the specimen collection, the collection site person shall inspect the collection room and remove persons or materials that could be used to adulterate the specimen. The collector must make sure all items necessary for collection are present, the area is secure, and that a bluing agent has been added to all of the toilets.
- 12.1.5 Prior to the specimen collection, the employee shall be instructed to wash and dry their hands.
- 12.1.6 After washing their hands, the employee shall remain in the presence of the collection site person and shall not be permitted access to fountains, faucets, soap dispensers, cleaning gents or any other materials that could be used to adulterate the specimen.

- 12.1.7 Except in circumstances set forth below requiring a specimen to be collected under the direct observation of a same gender collection site person, the employee shall be allowed to provide their specimen in the privacy of a stall. The employee must urinate into the collection cup
- 12.1.8 The collection site person shall note any unusual behavior of the employee on the collection form..
- 12.1.9 A split sample method of collection shall be used. At least 45 ml of urine must be collected, 30 ml to be used as the primary specimen and 15 ml to be used as the split specimen. Both samples will be shipped in a single shipping container.
- 12.1.10 After providing the specimen, the employee shall be allowed to wash their hands.
- 12.1.11 Immediately after obtaining the specimen, the collection site person shall measure the temperature of the specimen. The time from urination to the temperature measurement shall not exceed 4 minutes.
- 12.1.12 An employee who provides a urine specimen outside of the acceptable range of 90° to 100°F will be required to immediately provide a specimen under the direct observation of a same gender collection site person unless the individual's body temperature is within 1.8 degrees F of the specimen temperature.
- 12.1.13 Immediately after a specimen is collected, the collection site person shall inspect the specimen for color and look for any signs of contamination or tampering. Any unusual characteristics of the specimen shall be noted on the collection site form.
- 12.1.14 All specimens suspected of being tampered with shall be forwarded to the lab for testing.
- 12.1.15 If the collection site person believes tampering or adulteration has occurred, a second specimen shall be collected immediately under the direct observation of a same gender collection site person.
- 12.1.16 After collection of any specimen, both the employee and the collecting site person shall keep the specimen in view at all times prior to it being sealed and labeled.
- 12.1.17 The specimen shall be sealed and labeled in the presence of the employee.

- 12.1.18 The collection site person shall place an identification label securely on the specimen bottle. The label shall include the date, the individual specimen number and any other identifying information required by the City. If the label does not act as a tamper-proof seal, a separate tamper-proof seal shall be applied to the specimen bottle and initialed by the collection site person and the employee.
- 12.1.19 The identification label on the specimen bottle shall be initialed by the employee certifying that the specimen collected is theirs.
- 12.1.20 The collecting site person shall enter all information identifying the specimen on the custody and control form and sign the form certifying collection was accomplished in accordance with the instructions provided.
- 12.1.21 The employee shall be required to sign the custody and control form to indicate that the specimen collected is theirs. The employee may also be required to sign a consent or release form.
- 12.1.22 The collection site person shall complete the chain-of-custody portion of the custody and control form certifying proper completion of the collection.
- 12.1.23 If the specimen is not immediately shipped to the laboratory, it shall be secured during temporary storage.
- 12.1.24 The urine specimen and custody documents must be under the control of the collection site person while the chain-of-custody procedures are being performed.
- 12.1.25 The collection site person shall arrange to ship the collected specimen to the drug-testing laboratory.
- 12.1.26 The laboratory shall transmit the test results to the MRO and may use electronic means such as teleprinters, facsimile or computer, so long as those methods are designed to maintain confidentiality. In no event may results be provided verbally by telephone. It is also the responsibility of the laboratory to transmit the original or a certified copy of the chain of custody and control form to the MRO. The laboratory is required to identify the individual at the laboratory responsible for the day-to-day management of the laboratory process.
- 12.1.27 The laboratory must provide the City with an aggregate quarterly statistical summary of urinalysis testing information, but no personal identifying information shall be included on the summary. Summaries shall be provided not more than 14 calendar days after the end of the quarter covered by the summary. Laboratories may provide the report to a consortium, but the data

must be employer-specific. If the report is provided to a consortium, it is the responsibility of the consortium to report the employer-specific data to the City within 14 days of their receipt of the report. The summary shall contain the following information:

1. The number of specimens received for testing;
2. The number of specimens confirmed positive for:
 - a) Marijuana metabolite
 - b) Cocaine metabolite
 - c) Opiates
 - d) Phencyclidine
 - e) Amphetamines
3. The number of specimens for which a test was not performed.

12.1.28 Quarterly reports shall not include data from which it is possible to infer information about an individual employee's tests. If necessary, in order to prevent the disclosure of such data, the laboratory shall not send a report until there is enough data to make an inference unlikely. The laboratory must inform the employer if, to prevent such disclosure, that a quarterly report will not be sent.

13.0 Appendixes:

APPENDIX 1	Positions Subject to DOT Regulations
APPENDIX 2	City Designated Safety-Sensitive Positions
APPENDIX 3	Drug and Alcohol Testing Consent Form
APPENDIX 4	Observed Behavior Reasonable Suspicion Record
APPENDIX 5	Effects Of Alcohol and Drugs
APPENDIX 6	Definitions
APPENDIX 7	Approved Department of Health and Human Services Laboratories

APPENDIX 1
POSITIONS SUBJECT TO DOT and FTA REGULATIONS
(As Designated by FTA)

Bus Operator (FTA)
Equipment Mechanic
Equipment Operator
Equipment Service Worker
Fleet Services Manager
Fleet Services Supervisor
Senior Equipment Mechanic
Transit Coordinator (FTA)
Transit Dispatcher (FTA)
Transportation Planner (FTA)

- * And any and all new classifications whose job requirements fall within the DOT regulations.

APPENDIX 2
SAFETY SENSITIVE POSITIONS
(As designated by the City of Mesquite)

Director of Housing and Community Services
MTED Driver
Parks and Recreation Drivers that Operate MTED Buses
MTED Dispatchers
MTED Supervisor/Coordinator
City Volunteers that Operate MTED Vehicles
Manager of Equipment Services
Supervisor of Equipment Services
Service Center Mechanics
Tire Shop Technician

APPENDIX 3

DRUG AND ALCOHOL TESTING CONSENT FORM

Employee: _____ SSN: _____
Dept/Div: _____

I, the undersigned employee understand that I am being tested for drugs and/or alcohol for the following reason:

- | | |
|---|--|
| <input type="checkbox"/> Random – Safety Sensitive | <input type="checkbox"/> FTA Random – Transit Personnel |
| <input type="checkbox"/> Random – Probationary Employees | <input type="checkbox"/> DOT Random – CDL Drivers |
| <input type="checkbox"/> Reasonable Suspicion | <input type="checkbox"/> Random – EAP Follow-up |
| <input type="checkbox"/> Allegation of Excessive Use of Force
Result | <input type="checkbox"/> Return to Duty after a Positive |
| <input type="checkbox"/> Discharge of Firearm Resulting in Property
Damage/Bodily Injury | <input type="checkbox"/> Post-Accident/Injury |

I acknowledge and understand that I may be subject to disciplinary action and may be referred to the City's Employee Assistance Program when there is a confirmed positive test result. In the case of initial probationary employment status, I acknowledge and understand that a positive result is grounds for immediate termination.

Consent to Testing and Release of Information:

As an employee of the City of Mesquite, I hereby consent, as a condition of continued employment, to giving specimens and having those specimens tested for the presence of drugs and/or alcohol pursuant to the City of Mesquite's Drug and Alcohol Testing Policy and Procedures. I also hereby consent to the release of my complete records pertaining to drug and alcohol testing to the Human Resources Director and /or designee. I understand that the purpose of the release of this information is for the City of Mesquite to evaluate the status of my employment. This information is highly confidential and shall only be released to those within the City with a need to know and only to those outside the City when required by state and/or federal law.

Employee Signature/Date

Witness Signature/Date

Refusal to Consent to Testing and Release of Information

I refuse to consent to testing. I understand that refusing to consent is classified as prohibited conduct under the City of Mesquite's Drug and Alcohol Testing Policy and Procedure and that I am therefore, subject to disciplinary action up to and including termination. I further understand that by refusing to test now, I will not be able to reverse such decision to test at a later date and have been advised of such consequences.

Employee Signature/Date

Witness Signature/Date

APPENDIX 4

OBSERVED BEHAVIOR
REASONABLE SUSPICION RECORD

Name: _____ Date Observed: _____
Time Observed: _____

Dept/Division: _____ Where Observed: _____

Record employee observed behavior for reasonable suspicion for the use of alcohol or controlled substances. According to 49 CFR 382.307 *Reasonable Suspicion Testing*, the city shall require the employee to submit to a controlled substance or alcohol test if a supervisor or manager who is trained in accordance with the city's, the DOT's and the FTA's *Reasonable Suspicion Testing* regulations determines that reasonable suspicion exists.

Reasonable Suspicion for: Alcohol Controlled Substance

1. **APPEARANCE:** normal sleepy tremors clothing cleanliness

Description: _____

2. **BEHAVIOR:** normal erratic inappropriate gaiety mood swings lethargic

Description: _____

3. **SPEECH:**

Description: _____

4. **BODY ODORS:**

Description: _____

5. **INDICATIONS OF THE CHRONIC AND WITHDRAWAL EFFECTS OF CONTROLLED SUBSTANCES:**

Description: _____

6. **OTHER OBSERVATIONS FOR REASONABLE SUSPICION:**

Description: _____

WITNESSES

Supervisor/Manager Signature _____ Title _____ Date _____

Witness Signature _____ Title _____ Date _____

THE ALCOHOL TEST MUST BE ADMINISTERED WITHIN 8 HOURS FOLLOWING A REASONABLE SUSPICION DETERMINATION.
RETAIN IN EMPLOYEE'S CONFIDENTIAL FILE

APPENDIX 5

EFFECTS OF ALCOHOL AND DRUGS

I. Alcohol

A. Description:

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its' physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

B. Signs and Symptoms of Use

- * Dulled mental processes, including occasional/partial memory loss
- * Lack of coordination
- * Odor of alcohol on breath
- * Possible constricted pupils
- * Sleepy or stupor condition
- * Slowed reaction rate
- * Slurred speech

Except for odor, these are general signs and symptoms of any depressant substance

C. Health Effects:

The chronic consumption of alcohol over time may result in health hazards dependency, damage/disease to the liver, kidney, pancreas and stomach as well as birth defects, and ulcers.

D. Social Issues

- * Two-thirds of all homicides are committed by people who drink prior to the crime.
- * Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- * Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
- * The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.
- * Forty percent of family court cases are alcohol problem related.
- * Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- * More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

E. Workplace Issues

Because alcohol depresses brain centers, it progressively produces uncoordinated movements, confusion, disorientation, stupor, anesthesia, coma, and finally death. Drinking over a period of time causes loss of memory, judgment, and learning ability which can result in a higher frequency of accidents, safety violations and other workplace issues that could jeopardize the health and safety of co-workers and the public if an employee is working while under the influence.

II. Drugs

A. MARIJUANA

1. Description:

People use marijuana for the mildly tranquilizing, mood and perception altering effects it produces. Marijuana does not depress central nervous system reactions. Its action is almost exclusively on the brain, altering the proper interpretation of incoming messages.

2. Signs and Symptoms of use:

- *Reddened eyes
- *Slowed Speech
- *Distinctive odor on clothing
- *Lackadaisical "I don't care" attitude
- *Chronic fatigue and lack of motivation
- *Irritating cough, chronic sore throat

3. Health Effects

- *Irritant to the lungs causing chronic emphysema-like conditions
- *Chronic smoking causes changes in brain cells and brain waves.
- *Pregnancy problems and Birth Defects
- *Temporary sterility in men, and reduced fertility in women
- *Delayed decision making
- *Diminished concentration

4. Acute/Overdose Effects:

- * Aggressive urges
- * Anxiety
- * Confusion
- * Fearfulness
- * Hallucinations
- * Heavy sedation
- * Immobility
- * Mental dependency
- * Panic
- * Paranoid reaction
- * Unpleasant distortions in body image

B. COCAINE

1. Description

Cocaine is used medically as a local anesthetic. It is abused as a powerful physical and mental stimulant. The entire central nervous system is energized. Muscles are more tense, the heart beats faster and stronger, and the body burns more energy. The brain experiences exhilaration caused by a large release of neurohormones associated with mood elevation.

2. Signs and Symptoms of Use

- * Financial problems
- * Frequent and extended absences from meetings or work assignments
- * Increased physical activity and fatigue
- * Isolation and withdrawal from friends and normal activities
- * Secretive behaviors, frequent non-business visitors, delivered packages, phone calls
- * Unusual defensiveness, anxiety, agitation
- * Wide mood swings
- * Runny or irritated nose
- * Difficulty in concentration
- * Dilated pupils and visual impairment
- * Restlessness
- * Formication (sensation of bugs crawling on skin)
- * High blood pressure, heart palpitations and irregular rhythm
- * Hallucinations
- * Hyperexcitability and overreaction to stimulus
- * Insomnia
- * Paranoia and hallucinations
- * Profuse sweating and dry mouth

- * Talkativeness

3. Health Effects:

- * Upset the chemical balance of the brain.
- * Cocaine causes the heart to beat faster and harder and rapidly increases blood pressure. It causes spasms of blood vessels in the brain and heart which lead to ruptured vessels causing strokes and heart attacks.
- * Strong psychological dependency can occur.

4. Workplace Issues:

- * Extreme mood and energy swings create instability. Sudden noises can cause a violent reaction.
- * Lapses in attention and ignoring warning signals greatly increase the potential for accidents.
- * The high cost of cocaine frequently leads to workplace theft and/or dealing.
- * A developing paranoia and withdrawal create unpredictable and sometimes violent behavior.
- * Work performance is characterized by forgetfulness, absenteeism, tardiness, and missed assignments.

III. OPIATES

1. Description

Opiates are narcotic drugs that alleviate pain, depress body functions and reactions and, when taken in large doses, cause a strong euphoric feeling.

2. Signs and Symptoms of Use:

- * Mood changes
- * Impaired mental functioning and alertness
- * Constricted pupils
- * Depression and apathy
- * Impaired coordination
- * Physical fatigue and drowsiness
- * Nausea, vomiting and constipation

3. Health Effects:

- * IV needle users have a high risk for contracting hepatitis and AIDS due to the sharing of needles.

4. Workplace Issues:

- * Narcotics increase pain tolerance. As a result which could result in people more severely injuring themselves or failing to seek medical attention after an accident due to the lack of pain sensitivity.

5. Social Issues:

- * There are over 500,000 heroin addicts in the U.S., most of who are IV needle users.
- * An even greater number of medicinal narcotic dependent persons obtain their narcotics through prescriptions.
- * Because of tolerance, there is an increasing need for more narcotics to produce the same effect.
- * Strong mental and physical dependency occurs.

D. AMPHETAMINES

1. Description

Amphetamines are central nervous system stimulants that speed up the mind and body. The physical sense of energy at lower doses and the mental exhilaration of higher doses are the reasons for their abuse.

2. Signs and Symptoms of Use:

- * Hyperexcitability, restlessness
- * Dilated pupils
- * Increased heart rate and blood pressure
- * Heart palpitations and irregular beats
- * Profuse sweating
- * Rapid respiration
- * Confusion
- * Panic
- * Talkativeness
- * Inability to concentrate

3. Health Effects:

- * Regular use produces strong psychological dependence and increasing tolerance to the drug.
- * High doses may cause toxic psychosis resembling schizophrenia.
- * Intoxication may induce a heart attack or stroke due to spiking of blood pressure.
- * Chronic use may cause heart and brain damage due to severe constriction of capillary blood vessels.

- * The euphoric stimulation increases impulsive and risk-taking behavior, including bizarre and violent acts.
- * Withdrawal from the drug may result in severe physical and mental depression.

4. Workplace Issues:

- * Since amphetamines alleviate the sensation of fatigue, they may be abused to increase alertness because of unusual overtime demands or failure to get rest.
- * Low dose amphetamine use will cause a short-term improvement in mental and physical functioning. With greater use or increasing fatigue the effect reverses and has an impairing hangover effect. The hangover effect is characterized by physical fatigue and depression, which make operation of equipment or vehicles dangerous.

V. PHENCYCLIDINE (PCP)

1. Description

PCP acts as both a depressant and a hallucinogen, and sometimes as a stimulant. It is abused primarily for its variety of mood altering effects. A low dose produces sedation and euphoric mood changes. The mood can change rapidly from sedation to excitation and agitation. Larger doses may produce a coma-like condition with muscle rigidity and a blank stare, with the eyelids half closed. Sudden noises or physical shocks may cause a "freak out" in which the person has abnormal strength, extremely violent behavior, and an inability to speak or comprehend communication.

2. Signs and Symptoms of Use:

- * Impaired coordination
- * Severe confusion and agitation
- * Extreme mood shift
- * Muscle rigidity
- * Nystagmus (jerky eye movements)
- * Dilated pupils
- * Profuse sweating
- * Rapid heartbeat
- * Dizziness
- * Drowsiness, inability to concentrate, nausea
- * Rapid or slurred speech
- * Bloodshot eyes, runny nose.
- * Drastic weight changes.
- * Deterioration in personal grooming and hygiene.

- * Wearing sunglasses and long-sleeved shirts at inappropriate times to hide dilated pupils or needle marks.

3. Health Effects:

- * The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with the anesthetic effect on the body.
- * Use can cause irreversible memory loss, personality changes, and thought disorders.

4. Workplace Issues

- * Not generally used in a workplace setting because of the severe disorientation that occurs.
- * Excessive absences and/or tardiness (especially after a weekend or holiday)
- * Frequent requests for time off during the workday.
- * Numerous accidents or pattern .
- * Noticeable increase in medical insurance claims, particularly for non-job injuries.
- * Lack of concentration or decreased productivity after lunch or breaks.
- * Non-work related visits from other employees or strangers.
- * Frequent trips to the restroom or water fountain.
- * Frequent visits to automobile/parking lot.
- * Frequent need to borrow money.
- * Avoidance of supervisors.

APPENDIX 6

DEFINITIONS

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.

Alcohol Concentration is the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

Alcohol Use is the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

Breath Alcohol Technician (B.A.T.) is an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath-testing device.

Canceled or Invalid Test is a drug or alcohol test or specimen that has been declared invalid by a Medical Review Officer. A canceled test is neither a positive nor a negative test. A sample has been rejected for testing by a laboratory is treated the same as a canceled test. In alcohol testing a test that is deemed to be invalid, is neither a positive or negative test.

Chain of Custody is a procedures to account for the integrity of each urine or blood specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen.

City Property or Premises includes all property, facilities, buildings, structures, and vehicles owned, operated, leased or under control of the City.

Commercial Motor Vehicle a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- a. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- b. Has a gross vehicle weight rating of 26,001 or more pounds; or
- c. Is designed to transport 16 or more passengers, including the driver; or
- d. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be place carded under the Hazardous Materials Regulations.

Confirmation Test means (as defined by the Department of Transportation):

- a. For alcohol testing, a second test, following a screening test with a result of 0.02 grams or greater of alcohol per 210 liters of breath, that provides data of alcohol concentration.
- b. For controlled substances testing, a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principal from that of the screen test in order to ensure reliability and accuracy.

Controlled Substances: The terms "drugs" and "controlled substances" are interchangeable and have the same meaning. Unless specifically noted, drugs and controlled substances refer to marijuana (THC); Cocaine; Opiates; Phencyclidine (PCP) and Amphetamines (including methamphetamine).

Driver is any person who operates a commercial motor vehicle. This includes, but not limited to: full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operates a commercial motor vehicle at the direction of or with consent of an employer. For the purpose of pre-employment/pre-duty testing only, the term driver includes a person applying to an employer to drive a commercial motor vehicle.

Drug Test is the collection of a urine specimen by medical personnel. Laboratory analysis of that specimen by Enzyme Immunoassay (EMIT) screening, a confirmation of drug-positive EMIT test using gas chromatography/mass, spectrometry (GC/MS) methods and procedures, or other medically acceptable technology deemed appropriate by the City of Mesquite.

Emergency Call Back for the purposes of this policy includes employees who are subject to be called back on emergencies but who have not been assigned call-back responsibilities on a rotating basis.

Impaired means an employee's diminished capacity to perform any duties of the job.

Medical Review Officer is a licensed physician responsible for receiving laboratory results generated by an employer's drug and alcohol testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test results.

Motor Vehicle Accident is defined as any incident that results in:

- a. A fatality;
- b. Bodily injury that requires immediate medical attention away from the scene of the accident;
- c. Vehicles incurring disabling damage requiring the vehicle to be transported away from the scene by a tow truck or other vehicle, including damage to vehicles that could have been driven, but would have been further damaged if so driven.

Non-Vehicular Accident is defined as any accident not involving a motor vehicle that occurs during work hours which results in injury. As defined herein, death of any individual, or \$1,000 or more in damage to any city property if the employee appears to be partially, chiefly, or totally responsible for causing the accident or has violated a safety rule.

On-Call for the purposes of this policy includes employees who are assigned call back responsibilities on a rotating basis.

Performing a safety-sensitive function - An employee is considered to be performing a safety-sensitive function during any period in which the employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive function as defined herein.

Random Testing describes an unannounced scientific process of testing that assures that each employee (subject to this policy) has an equal chance of being tested each time covered employees are selected for testing.

Refusal to Submit to an alcohol or controlled substance test means that an affected employee:

- a. Fails to provide adequate breath for testing without a valid medical explanation after the employee received notice of the requirements for breath testing;
- b. Fails to provide adequate urine for controlled substances testing without a valid medical explanation after the employee has received notice of the requirement for urine testing; or
- c. Engages in conduct that clearly obstructs the testing process, including a refusal to submit to drug and/or alcohol testing.

Safety Sensitive Function includes all functions an employee may perform when the use of drugs or alcohol could render the employee unfit to perform assigned duties. Additionally, it could create a safety hazard to the employee, other employees or citizens, or damage to property, including those duties specified in the Federal Motor Carrier Safety Regulations, 49CFR 395.2.

Substance Abuse Professional means a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

3. Specimen Collection Site

- a. All urine specimens must be collected at a collection site authorized by the City of Mesquite. A collection site is defined as a place where employees present themselves for the purpose of providing a specimen to be analyzed for the presence of drugs. The collection site must meet the requirements of the DOT regulations outlined in 49 CFR part 40 "Transportation Workplace Drug and Alcohol Testing Programs.
- b. Collection site personnel must comply with the FTA's records retention requirements as set forth in 49 CFR part 40(40.29and40.35) and 49CFR part 654(654.71) of the regulations. Under the authority of The City of Mesquite, no records shall be destroyed without the express written consent of The City of Mesquite.
- c. The City of Mesquite will ensure that the complete collection process meets all applicable DOT and FTA regulations.

APPENDIX 7

Collection Site and DHHS Approved Laboratory

Collection Site

Concentra Medical Center
4928 Samuel Blvd.
Mesquite, TX 75149
214.328.1400

DHHS Laboratory

Choicepoint Laboratories
Dr. S.B. Hoffman
5900 Wilshire Blvd.
Suite 2200
Los Angeles CA 90036
800.939.4782